

REMARKS

I. Introduction

Claims 1, 4 and 16-18 are currently pending in this application. Claim 1 has been amended and is supported throughout the specification, for example in paragraph [0044]. Claims 5 and 8-15 have been canceled without prejudice. Claims 16-18 have been added and are supported throughout the specification, for example, in paragraph [0044]. No new matter has been added.

In view of the foregoing amendments and the following remarks, Applicants respectfully submit that the claims are allowable and the application should be passed to issue.

II. Claim rejections under 35 U.S.C. § 112, second paragraph

Claims 1, 5 and 12 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to point out and distinctly claim the subject matter regarded as the invention. Claims 5 and 12 have been canceled without prejudice and claim 1 has been amended to obviate the rejection. Thus, it is respectfully submitted that the claims fully comply with 35 U.S.C. § 112 and therefore the rejection should be withdrawn and the pending claims should be indicated as allowable.

III. Claim rejections under 35 U.S.C. § 102(b)

Claims 1, 4, 5 and 9-15 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kawamura (EP 1359404). Applicants respectfully disagree.

However, in an effort to expedite prosecution, claim 1 has been amended to recite, in pertinent part, that the **electric charge of the surface of the particles and the electric charge of the specific binding substance have the same polarity in the liquid mixture.**

Anticipation under 35 U.S.C. § 102 requires that “all of the elements and limitations of the claim must be shown in a single prior reference, arranged as in the claim”. *In re Buszard*, 504 F.3d 1364, (Fed Cir. 2007). At a minimum, Kawamura simply does not disclose a stirring method in which **the electric charge of the surface of the particles and the electric charge of the specific binding substance have the same polarity in the liquid mixture**, as recited in claim 1.

Moreover, as explained for example, in paragraph [0044] of the instant specification, since an electric charge of the surface of the particles and the electric charge of the specific binding substance have the same polarity in the liquid mixture, the separation of the reagent from the particles is facilitated by the electric repulsion between the particle and the reagent.

As such, it is clear that Kawamura fails to disclose all of the elements of claim 1. Accordingly, it is respectfully submitted that claim 1 is allowable over the cited prior art reference. Furthermore, claims 4 and 16-18 depend from and further define the subject matter of claim 1 and therefore are also allowable.

IV. Claim rejections under 35 U.S.C. § 103(a)

Claim 8 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kawamura in view of Smith (2003/0710145). Claim 8 has been canceled without prejudice, thereby rendering this rejection moot.

Furthermore, claim 1 is allowable over Kawamura in view of Smith, at least because neither prior art references, either alone or in combination, teach or suggest a stirring method in which the **electric charge of the surface of the particles and the electric charge of the specific binding substance have the same polarity in the liquid mixture**, as recited in claim 1.

Moreover, both Kawamura and Smith also fail to teach or suggest any repulsion between a particle and reagent in a liquid sample. Thus, it is clear that claim 1 is allowable over the cited prior art references. Furthermore, claims 4 and 16-18 depend from and further define the subject matter of claim 1 and therefore are also allowable.

V. New Claims 16-18

New claims 16-18 further define the subject matter of claim 1 by reciting that the reagent is an antibody (claim 16) and that the particle surfaces comprise polylysine (claims 17 and 18). As discussed above, claims 16-18 are allowable due to their dependency from allowable claim 1.

Furthermore, claims 16-18 are allowable on their own merits as none of the cited prior art references, either alone or in combination, teach or suggest that the reagent is an antibody or that the surfaces of the particles comprise polylysine.

Accordingly claims 16-18 are clearly allowable.

VI. Conclusion

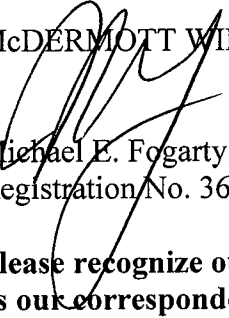
In view of the above amendments and remarks, Applicants respectfully submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned

Application No: 10/588,546

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP


Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF: ASA
Facsimile: 202.756.8087
Date: January 28, 2010

**Please recognize our Customer No. 53080
as our correspondence address.**